

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Royal Kenneth HAYES,

Petitioner,

v.

Robert L. AYERS Jr., Warden of San Quentin
 State Prison,

Respondent.

Case Number C 01 3926 MHP

DEATH-PENALTY CASE

ORDER REGARDING APPLICATION
 FOR CERTIFICATE OF APPEAL-
 ABILITY AND REINSTATEMENT
 OF STAY OF EXECUTION

[Docket No. 41]

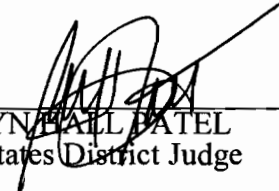
The Court previously granted judgment for Respondent and declined to issue a certificate of appealability. Petitioner has filed a belated request for a certificate of appealability. For the reasons stated in the Court's prior orders in the present action, Petitioner has not made any showing of the denial of a constitutional right, much less the substantial showing required for the issuance of a certificate of appealability. *See* 28 U.S.C. § 2253(c)(2) (2007). Accordingly, Petitioner's application for a certificate of appealability is denied.

The stay of execution previously entered in the present action expired upon the issuance of judgment for Respondent. However, Petitioner has filed a timely notice of appeal to the United States Court of Appeals for the Ninth Circuit. Accordingly, pursuant to 28 U.S.C. § 2251(a)(1) (2007), Petitioner's application for reinstatement of his stay of execution pending his appeal is granted: all proceedings related to the execution of Petitioner's sentence of death are

1 hereby stayed pending the resolution of Petitioner's appeal of the present action or contrary order
2 of the Court of Appeals or the Supreme Court of the United States.

3 *It is so ordered.*

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6 DATED: July 3, 2007

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MARILYN HALL PATEL
United States District Judge